

REMARKS/ARGUMENTS

Claims 2-6 are pending in the application. By this Amendment, claim 1 is canceled and claims 2-6 are added. Support for the new claims can be found throughout the originally filed application, including the claims and the drawings.

I. FORMAL MATTERS**A. Certified Copies of the Corresponding Brazilian Applications**

The Office Action notes that the Applicant has not filed certified copies of the corresponding Brazilian Patent Applications to which the present application claims priority. Because the present application is a U.S. National Stage of a PCT Application, it is believed that filing certified copies of the Brazilian applications is not necessary.

B. The Drawings

The Office Action objects to the drawings because of the depiction of the sealing ring and the cylinder guide-stems. It is believed that Fig. 1 is accurate as currently drawn. To the best of the undersigned's knowledge and belief, the sealing ring 29 is shown in the closed position. The sealing ring 29 would be moved downward to the "open" position. With the sealing ring 29 in the lowered position, it would be possible for liquid in the bottom portion of the cylinder sleeve 4 to flow around the sealing ring 29 and into the upper portion of the cylinder sleeve. Thus, with the ceiling ring 29 in the open position, when the cylinder 5 is lowered, liquid located at the bottom of the tank would be pushed upward, which would cause liquid in the upper portion of the tank to flow out the pipe 28 located at the top of the tank.

In view of the foregoing, withdrawal of the objection to the drawings is respectfully requested.

C. The Specification

The Office Action notes that the specification includes many informalities. To correct the application, Applicant has submitted a Substitute Specification. Also enclosed herewith is a marked-up version of the original application which shows the changes that were made.

The undersigned has made every effort to ensure that the Substitute Specification does not introduce any new matter into the application. If the Examiner has any questions about any of the changes that were made, the Examiner is invited to contact the undersigned at the telephone number listed below.

II. CLAIM REJECTIONS

A. Section 101

The Office Action rejects claim 1 under 35 USC §101 because the claim 1 is allegedly directed to non-statutory subject matter. The Applicant acknowledges the Examiner's statements regarding how the machine works. However, the undersigned has been informed that Applicant has created a prototype which is arranged as shown and described in the present application. Applicant's prototype has a water column which is 10 meters from the highest point of the pipe identified with reference numeral 28 in Fig. 1 to the level of the turbine 27. The prototype is capable of generating approximately 200KwA of electricity. While in operation, the prototype machine uses between 2 and 5 percent of the power generated by the turbine to move the cylinder up and down, leaving more than 95 percent of the generated electricity free for use in other purposes.

To the extent necessary, Applicant would be happy to provide a declaration attesting to the above-stated facts. In view of these facts, withdrawal of the rejection under §101 is respectfully requested.

B. Section 102

The Office Action also rejects claim 1 under 35 USC §102(b) over German Patent No. 4404803, or U.S. Patent No. 4,739,102 to Kendari. Because claim 1 has been canceled, this rejection is moot.

III. NEW CLAIMS 2-6

By this Amendment, claims 2-6 are added to the application. Claim 2 is an independent claims directed to a hydraulic machine for generating electricity. Claims 3-6 depend from claim

2. It is respectfully submitted that new claims 2-6 recite features which are not shown or suggested by any of the references of record. Accordingly, it is respectfully submitted that claims 2-6 are allowable.

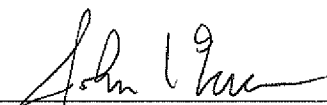
IV. CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. If the Examiner believes that additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

The Commissioner is authorized to charge the undersigned's deposit account #14-1140 in whatever amount is necessary for entry of these papers and the continued pendency of the captioned application.

Respectfully submitted,

NIXON & VANDERHYE P.C.



John C. Eisenhart
Attorney Reg. No. 38,128

Enclosures: Substitute Specification
 Marked-up Substitute Specification

JCE:knh